

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

IN RE UPSTREAM ADDICKS AND  
BARKER (TEXAS) FLOOD-CONTROL  
RESERVOIRS

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Sub-Master Docket No. 17-cv-9001L

Judge Charles F. Lettow

THIS DOCUMENT RELATES TO:

Electronically filed January 2, 2019

ALL UPSTREAM CASES

**MOTION FOR A STAY OF CASE IN LIGHT OF LAPSE OF APPROPRIATIONS**

The United States of America hereby moves for a stay of this case, including a suspension of all pre-trial filings and the scheduled trial setting, in the above-captioned case.

1. At the end of the day on December 21, 2018, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The same is true for several other Executive agencies. The Department of Justice does not know when funding will be restored by Congress.

2. Trial is currently set to begin in this matter on February 18, 2019. Plaintiffs and the United States have identified as witnesses several government employees, including employees of the Federal Emergency Management Agency, the United States Geological Survey, and the National Oceanic and Atmospheric Administration. Those federal agencies, like the Department of Justice, currently lack funding and several witnesses identified in the parties' preliminary witness lists are currently not working due to agency furloughs. As of this filing of this motion, employees of the United States Army Corps of Engineers are currently not furloughed.

3. Absent an appropriation, Department of Justice attorneys and these federal employees are prohibited from working, even on a voluntary basis, except in very limited circumstances, including “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342.

4. Undersigned counsel for the Department of Justice therefore requests a stay of this case, including all pre-trial filings and the trial setting until Congress has restored appropriations to the Department of Justice and the various federal agencies.

5. If this motion for a stay is granted, undersigned counsel will notify the Court as soon as Congress has appropriated funds. The United States requests that, at that point, all current deadlines for the parties be extended commensurate with the duration of the lapse in appropriations.

6. The undersigned counsel discussed this matter with counsel for Plaintiffs, but has not yet received Plaintiffs’ position on this motion.

Therefore, the United States hereby moves for a stay of this case, including all pre-trial filings and the trial setting until funding is appropriated to the Department of Justice and the various federal agencies associated with this matter.

Dated: January 2, 2019

Respectfully submitted,  
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Environment & Natural Resources Division

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